

REMARKS

INTRODUCTION:

In accordance with the foregoing, claims 15 and 32 have been amended to incorporate features from allowed claim 16 and objected to claim 43. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-43 are pending and under consideration. Reconsideration is requested.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

Applicants request entry of this Rule 116 Response because:

- (1) it is believed that the amendment of claims 15 and 32 puts this application into condition for allowance as suggested by the Examiner;
- (2) the amendments of claims 15 and 32 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and
- (3) the amendments do not significantly alter the scope of the claims and place the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

NON-STATUTORY DOUBLE PATENTING REJECTION:

On pages 4-23 of the Office Action, the Examiner rejects claims 1-14, 17-28, 30, 31, and 36-39 under the judicially created doctrine of obviousness-type double patenting in view of selected claims of U.S. Patent No. 6,449,227 in view of Kawamura et al. (U.S. Patent No. 6,075,920) as set forth in the Office Action. In view of the enclosed Terminal Disclaimer, it is respectfully submitted that the rejection is deemed moot and reconsideration of the requirement is respectfully requested.

REJECTION UNDER 35 U.S.C. §102:

In the Office Action at pages 23-24, the Examiner rejects claim 15 under

35 U.S.C. §102(e) in view of Kawamura et al. This rejection is respectfully traversed and reconsideration is requested.

While applicants do not necessarily agree with the Examiner's construction of Kawamura et al., in view of the amendment of claim 15 to incorporate features of allowed claim 16 and objected claim 43, it is respectfully requested that the Examiner reconsider and withdraw the rejection and that Kawamura et al. does not disclose or suggest the invention recited in claim 15.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action at pages 25-26, the Examiner rejects claim 32 under 35 U.S.C. §103 in view of Kawamura et al. and Akune et al. (U.S. Patent No. 5,856,796). The rejection is respectfully traversed and reconsideration is requested.

While applicants do not necessarily agree with the Examiner's construction and combination of Kawamura et al. and/or Akune et al., in view of the amendment of claim 32 to incorporate features of allowed claim 16 and objected claim 43, it is respectfully requested that the Examiner reconsider and withdraw the rejection and that the combination does not disclose or suggest the invention recited in claim 32.

STATUS OF CLAIMS NOT REJECTED:

On page 26 of the Office Action, the Examiner allows claims 16, 29 and 33-35. On page 29 of the Office Action, objects to claims 40-43 on page 27 of the Office Action for depending from rejected claims.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

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If there are any additional fees associated with the filing of this Response, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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